

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

CLYNTON D. BUTTS,)
Petitioner,)
v.) Case No. CIV-13-194-M
WARDEN McCOLLUM,)
Respondent.)

Report and Recommendation

Mr. Clynton D. Butts seeks habeas relief, and the Court should transfer the action to the Northern District of Oklahoma.

The Petitioner is challenging a conviction imposed in Tulsa County District Court, which is located in the Northern District of Oklahoma.¹ Mr. Butts is incarcerated at the Oklahoma State Reformatory, Granite, Oklahoma, which is located in the Western District of Oklahoma.² Under these circumstances, the Northern and Western districts have concurrent jurisdiction over the habeas petition.³ But when appropriate, this Court can exercise discretion to transfer the action to the Northern District of Oklahoma for hearing and determination.⁴

¹ See 28 U.S.C. § 116(a).

² See 28 U.S.C. § 116(c).

³ See 28 U.S.C. § 2241(d).

⁴ See 28 U.S.C. § 2241(d).

The Court should exercise this discretion and transfer the action to the Northern District of Oklahoma. For a habeas petition which challenges the validity of the conviction, this district and the Northern District of Oklahoma share the view that adjudication should ordinarily take place in the district where the conviction was obtained. This view is based, in part, on the shared belief that ordinarily the records and counsel will be available in the district where the prosecution took place. Under these circumstances, the undersigned recommends transfer of the action to the Northern District of Oklahoma.

The parties are advised of their right to object to this report and recommendation by March 15, 2013.⁵ Any such objection must be filed with the Court Clerk for the United States District Court, Western District of Oklahoma. Failure to timely object would waive Mr. Butts's right to challenge the transfer in a subsequent appeal.⁶

This report terminates the referral.

The undersigned directs the Court Clerk to send the report and recommendation to the Petitioner and the Attorney General of Oklahoma. The copy for the Attorney General of Oklahoma is for informational purposes only.

Entered this 27th day of February, 2013.



Robert E. Bacharach
United States Magistrate Judge

⁵ See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(d), 72(b)(2).

⁶ See *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).